



Washington State
Department of Health
Podiatric Medical Board
Meeting Minutes
September 29, 2005

The meeting of the Washington State Podiatric Medical Board was called to order by David Bernstein, DPM, Chair, at 9:30 a.m. The meeting was held at the Holiday Inn, 17338 International Boulevard, Seattle, WA 98188.

Board Members

Participating:

David Bernstein, DPM, Chair
James Porter, DPM
Stewart Brim, DPM, Vice Chair
Rex Nilson, DPM
Amy Wong, Public Member

Staff Participating:

Blake Maresh, Executive Director
Arlene Robertson, Program Manager
Gail Yu, Assistant Attorney General
Dori Jaffe, Assistant Attorney General
Maryella Jansen, Deputy Executive Director
Karen Maasjo, Administrative Staff

OPEN SESSION

1. Call to Order
 - 1.1 Approval of Agenda
The agenda was approved as published.
 - 1.2 Approval of Minutes - January 20, 2005
The January 20, 2005 minutes were approved as submitted.
 - 1.3 Approval of Conference Call Minutes - April 28, 2005
The conference call minutes of April 28, 2005 were approved as submitted.
 - 1.4 Approval of Conference Call Minutes - July 21, 2005

The July 21, 2005 conference call minutes were approved as submitted.

- 1.5 Approval of Conference Call Minutes - September 7, 2005
The conference call minutes of September 7, 2005 were approved as submitted.
2. (Open Session) Settlement Presentations
(Presentations are contingent upon agreements being reached between the parties prior to a board meeting.)
No presentations were made.
3. Scope of Practice/Practice Issues.
 - 3.1 Orthotic Definitions
Review current definitions and national practice guidelines.
 - 3.1.1 Podiatric Medicine - WAC 246-922-010
Definitions
 - 3.1.2 Prescription Custom Foot Orthoses Practice Guidelines - The American College of Foot and Ankle Orthopedics and Medicine
 - 3.1.3 Other Professional References
 - 3.1.3.1 Orthotic and Prosthetic Services - RCW 18.200.010 Definitions
 - 3.1.3.2 Optometrist - RCW 18.53.010
Definition - Scope of Practice; RCW 18.53.040
Exemptions - Exceptions - Limitation; WAC 246-851-520 Contact lens prescription defined; WAC 246-851-250 Minimum equipment requirements.
 - 3.1.3.3 Dispensing Optician - RCW 18.34.010
Licensing - Exemptions - Limitations; RCW 18.34.060 Dispensing Optician; WAC 246-824-230 Minimum fitting equipment.

ISSUE

The current definitions for orthotic devices in WAC 246-922-010 are unclear or incomplete in several aspects. The rules do not address the techniques that are appropriate for modeling or measuring the foot for the purpose of prescribing custom fabricated orthotics. The definitions also do not identify the information that should be contained in a prescription for a custom foot orthotic. There is concern about unlicensed individuals representing products as custom devices without a diagnosis or prescription from a licensed health care practitioner whose scope of practice permits treatment of the foot.

ACTION

The Board recognizes that individuals often self-diagnose and self-refer to unlicensed individuals to obtain foot orthotics. A diagnosis and prescription is necessary for an appropriate orthotic to be dispensed. Physical harm can result if an inappropriate device is dispensed. The public is being misled by unlicensed individuals who dispense products without a prescription from a licensed health care practitioner and often pay for an ineffective or inefficacious device. The Board determined that unlicensed individuals who are dispensing orthotics should be referred to the Department of Health Unlicensed Section for investigation.

- 3.2 Ambulatory surgery centers (ASCs) emergency procedures - Correspondence from Gerald T. Kuwada, DPM.

ISSUE

The Board reviewed the request from Dr. Kuwada relative to the Medicare requirement that an ambulatory surgical center have a tracheostomy set instead of a cricothyrotomy set for emergencies. Dr. Kuwada indicates that he does not feel qualified to perform a tracheostomy nor does he consider it to be within his scope of practice. In a rare situation, he could perform a cricothyrotomy while waiting for an ambulance to take the patient to the emergency room.

ACTION

The Board determined this issue is not within its jurisdiction. The Board indicated that an appeal could be made Medicare. Although podiatric physicians are trained to deal with an emergency, i.e., performing the cricothyrotomy, administering CPR and calling 911, performing a tracheostomy would be outside their scope of practice.

It was also suggested if a number of podiatric physicians in the state are impacted by this requirement, the state association may be able to assist in obtaining a waiver for podiatric practices.

- 3.3 LASER in Podiatry/Scope of Practice Questions - Correspondence from Jacqueline M. Babol, DPM, FACFS

ISSUE

The Board reviewed the request from Dr. Babol for clarification of the podiatric medicine scope of practice as it pertains to laser treatments of the lower extremity for skin/vascular applications and performing laser treatments on other parts of the body.

ACTION

A podiatric physician's scope of practice is considered to be below the knee as outlined in WAC 246-922.001. The Board indicated that WAC 246-922-001 (4) provides that a podiatric physician and surgeon may diagnose or treat an ailment of the human foot caused by a systemic condition provided appropriate consultation or referral is made to a licensed health care practitioner authorized to treat systemic conditions. This standard would be applicable to treating skin/vascular conditions with lasers.

The use of lasers for hair removal and other skin conditions on areas above the knee would be regulated by the Department of Licensing for estheticians or the Department of Health for health care professionals whose scope of practice permits use of lasers to treat human conditions. A podiatric physician may not represent that they can perform laser treatments above the knee.

3.4 Electronic Prescriptions - Board of Pharmacy rules

ISSUE

In 1998 legislation passed permitting the Board of Pharmacy to adopt rules relative to electronic prescriptions and e-prescribing.

ACTION

The rules that were adopted in January 2004 were provided for review. There was no action required by the Board.

3.5 2005 Legislative modifications to physical therapy scope of practice - SHB 1137

ISSUE

The practice of performing "sharp debridements" by physical therapists had previously been questioned by the Washington State Podiatric Medical Association. An interpretation from the Physical Therapy Board indicated that sharp debridement was within their scope of practice.

ACTION

SHB 1137, passed in 2005, clarifies that wound care, including sharp debridement, may be performed only by referral from or after consultation with an authorized health care practitioner. Sharp debridement is considered the removal of devitalized tissue and may be done only after showing evidence of adequate education and training. This was for informational purposes. No action was required by the Board.

- 3.6 Office Based Surgery (Non-Hospital Surgical Centers)
 - 3.6.1 Office-Based Surgery Regulation Overview of State Medical Boards
 - 3.6.2 Clinical Guidelines for Office-Based Surgery - Medical Quality Assurance Commission

ISSUE

Since many podiatric procedures are performed in offices and/or ambulatory surgical centers (ASCs), the Board has been following the review and findings pertaining to the office-based (non-hospital) surgery issue. A review by the Department of Health encompassing all professions impacted is being completed with a final report expected by the end of December.

ACTION

The Board was concerned that any state criteria not conflict with Medicare requirements for ASCs. The board members are interested in receiving a copy of the finalized report when available.

- 4.1 Update on pain management rules process.

Ms. Robertson reported that documents were being finalized for filing of the CR103. It is anticipated a rules hearing will be held early in 2006.

5. Program Manager Reports

5.1 Budget Report - May 2005

The May 2005 budget report is the most recent available. It was noted that it often takes until October to get a complete accounting of expenditures and the revenue balance from the previous biennium.

5.2 Washington Physicians Health Program

5.2.1 July 2005 Statistical Information

5.2.2 2004 Statistical Report Audit - Department of Health

The most recent statistics from the WPHP were provided to the Board. The numbers of participants remains the same as 2004. An internal audit report to verify compliance with the required performance elements by WPHP was also shared with the Board.

6. Executive Director Reports

6.1 Department/Division Updates

Mr. Maresh advised the board members of an upcoming training conference in December being sponsored by the Governor's office. Staff will send out more specific information to board members. Board members are encouraged to notify staff as soon as possible if they are interested in attending.

7. Set 2006 Meeting Dates

The following meeting dates were set for 2006:

January 26

May 11

September 7

Conference calls will be arranged between board meetings to review complaints and consider case reviews.

CLOSED SESSION

8. Court Decision Discussion relative to Complaint Reviews

8.1 Court of Appeals Division I-Client A & B, P.T. PHD (No. 54291-5-I)

8.2 Draft FAQs - Regarding Implementation of Client A & B vs Yoshinaka, et al.

The impact of the court case relative to approval of cases being referred for investigation was shared with the Board.

9. Discuss Policy Changes Impacted by the Court Decision

9.1 PO95-08 Reviewing Board Member Role-Complaints - Review for revisions

9.2 PO03-47 Review of Applicants with Felony or Gross Misdemeanor Convictions - Review for revisions

9.3 PO97-43 Closure of Below Threshold Reports - Review for revisions

ISSUE

The procedures for handling complaints and investigative cases will need to be modified to be consistent with the court ruling.

ACTION

Staff will make changes for review at the next meeting.

10. Investigative Authorizations

Eleven cases were reviewed; ten were referred for

investigation and one was closed below threshold.

11. Disciplinary Case Reviews - Reviewing Board Member Reports

<u>CASE NUMBER</u>	<u>CASE DISPOSITION</u>
2004-08-0001PO	Closed no cause for action; not a violation at the time the event occurred.
2005-03-0001PO	Closed no cause for action; evidence does not support a violation/care rendered was within the standard of care.

CLOSED BELOW THRESHOLD

2005-06-0001PO

12. Statement of Allegations/Stipulation to Informal Disposition Presentations (as needed)

There were no presentations

13. Compliance Reports

There were no compliance reports.

14. Application Review

There were no applications for Board review.

The meeting adjourned at 2:00 pm.

Respectfully Submitted

Arlene Robertson
Program Manager

NOTE: PLEASE VISIT THE PODIATRIC MEDICAL BOARD'S WEB SITE FOR FUTURE AGENDAS AND MINUTES. WWW.DOH.WA.GOV, GO TO LICENSING AND CERTIFICATION AND YOU WILL FIND A LIST OF THE HEALTH PROFESSIONS, GO TO PODIATRIC PHYSICIANS FOR AGENDAS AND MINUTES.